

REMARKS/ARGUMENTS

In the specification, the abstract was amended to correct the total number of words and provide a narrative form. The amended abstract has less than 150 words and is a more clear and concise description of the invention.

Claims 1-9 remain in this application. Claim 7 has been amended to correct a typographical error. Claims 8-9 are new.

Li, U.S. Patent No. 6,350,274

The Examiner rejected claims 1-7 under 35 U.S.C. 102(b) as purportedly being anticipated by Li, U.S. Patent No. 6,350,274. Claim 1 requires that the occlusion member be “located distally of said distal opening.” The phrase “located distally of said distal opening” refers to the relative position of the occlusion member with respect to the distal opening. With reference to Fig. 1, the specification of the application discloses a distal opening 17 that is formed in an elongate member 11 and an occlusion member 12 that is attached to the end of the elongate member 11. Because occlusion member 12 is attached to the end of the elongate member 11 and the distal opening 17 is formed at a distance from the end of the elongate member 11, the occlusion member 12 will always be located distally from the distal opening 17. (Application, page 3 line 21-23, Fig. 1.)

The Examiner contends that Li discloses a closure element that is distal of the distal opening. According to the Examiner, “Li discloses an elongate member that has a distal opening 40 and a proximal opening through which element 22 extends. The distal end of a closure or seal element 13 is distal of the distal opening as shown in fig. 1.” (Office Action Pages 2 and 3.) The

applicant respectfully disagrees with this argument because Li discloses a system in which the distal opening is not distally located from the occlusion member. Indeed, as described in Li, the side hole 40 is adjacent to the closure element 13, not distal. (Li, Col 4, lines 33-35, 61-62, Figs. 1-3.) Therefore, Li does not disclose or suggest “an occlusion member located distally of said distal opening.” Claims 2 through 4 depend from claim 1 and for the same reasons are not anticipated by Li.

Like claim 1, claim 5 includes the limitation that the occlusion member is located distally from the first opening. For the reasons discussed above, Li only discloses an occlusion member that is located adjacent to the opening at the distal end of the elongated member. Thus, claim 5 is not anticipated by Li because the reference does not disclose or suggest an occlusion that is located distally from an opening in the distal region of the elongated member. Claims 6 and 7, which depend from claim 5 are also not anticipated by Li for this same reason.

Zhu, U.S. Patent Publication No. 2002/0072767

The Examiner further rejected claims 1-4 under 35 U.S.C. 102(b) as purportedly being anticipated by Zhu, U.S. Patent Publication No. 2002/0072767. The Examiner contends that Fig. 6 of Zhu discloses a device having an elongated member having a plurality of distal openings (reference number 92) through the sidewall and in communication with the proximal opening (reference number 60).

The applicant submits that Zhu does not disclose an elongate member having a distal opening and a proximal opening that are connected by a lumen. As shown in Figs. 3 and 4 of Zhu, the distal openings 92 are formed in the push member 84 while the proximal openings 60 are formed in the catheter 32. Because the distal openings and proximal openings of the closure assembly described in Zhu are formed in different components and are not connected by a

lumen, Zhu does not disclose an elongate member having a distal opening and a proximal opening that are connected by a lumen.

The applicant also submits that the closure assembly disclosed in Zhu is not “adapted to extend into a blood vessel of a patient such that said distal opening is located in the lumen of the blood vessel such that blood flow through the proximal opening is visible outside of the patient's body.” Zhu discloses that distal openings 92 provide a flow path for an adhesive, not blood. (Zhu, ¶ 0064.) Thus, even though Zhu discloses blood flow into the distal openings 60, the blood does not exit through a proximal opening that is connected to the distal opening by a lumen. For these reasons, the applicant submits that Zhu does not disclose blood flow through a proximal opening that is visible outside of the patient's body.

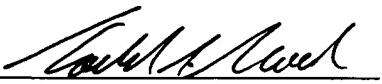
Further, the applicant submits that Zhu does not disclose an occlusion member that is capable of substantially blocking blood flow out of said blood vessel when it is withdrawn from said blood vessel lumen. More specifically, Zhu discloses a closure assembly that is used for inserting an elongate member into the blood vessel, drawing tissue away from the puncture wound, placing a hemostatic member next to the puncture wound and allowing the tissue to collapse around the hemostatic member so that it stays in place over the puncture wound. (Zhu, ¶¶ 0053 – 0069, Figs. 4-11.) Since the hemostatic member is never inserted into the blood vessel lumen, it is not “withdrawn from the blood vessel lumen.” Because Zhu does not disclose withdrawing an occlusion member from the blood vessel lumen, it does not anticipate claim 1 of the present application. Claims 2-4, which depend from claim 1, are also not anticipated by Zhu for the same reasons discussed above with respect to claim 1.

The Examiner is encouraged to call the undersigned collect at (415) 705-6377 if there are any outstanding issues or questions which can be resolved to allow this application to be passed to issue. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

DERGOSITS & NOAH LLP

Dated: November 22, 2006

By: 
Todd A. Noah
Reg. No. 35,626

Attorneys for Applicant
Four Embarcadero Center, Suite 1450
San Francisco, California 94111
(415) 705-6377